

SECTION 1. Legislative Intent.

This legislation is intended to amend home improvement contractor licensing regulations providing for a two year license term, strengthened education requirements, omission of electrical contractors who Town is preempted from licensing by Suffolk County, codifying designation of Licensing Review Board as taxi appeal board, amendment to the range of fines for violations and amendments to certain other regulations of licensed Home Improvement Contractors.

SECTION 2. Amendment.

§156-4 License Required.

It is unlawful for any persons, other than those exempt under the provisions of §156-5, to engage in the home improvement contracting business in the Town of East Hampton without first obtaining a license from the East Hampton Town Clerk's Office in accordance with and subject to the provisions of this chapter. Such license or a copy thereof shall be available at all of the contractor's work sites and shall be produced to any official having jurisdiction upon demand. All subcontractors engaged in providing home improvement, who are not employees of a licensed home improvement contractor, must have their own respective home improvement contractor's license.

SECTION 3. Amendment.

§156-5 Exempted Operations.

- A. An owner of residential property carrying out, engaging in, or undertaking a home improvement or home improvements on residential property which they own.
- B. An electrical contractor, engaged solely in performing electrical work, who holds a valid Electrical Contractor's license from the Suffolk County Department of Licensing and Consumer Affairs.
- C. An individual employee of a licensee who is paid wages or salary by such licensee for his work.
- D. A member or partner of a firm, partnership or other entity which is a licensed home improvement contractor who performs labor or services for such licensee.
- E. A stockholder or officer of a licensee corporation who performs labor or services for such licensee.
- F. An architect, professional engineer or any other person who is required by state, county, or Town law to attain standards of competency or experience as a prerequisite to engaging in such craft or profession and who is acting exclusively within the scope of the craft or profession for which he is currently certified or licensed.

SECTION 4. Amendment.

§156-6 Application for license.

- E. First-time applicants for a license shall provide proof of ten (10) classroom hours of continuing education within the year prior to application. If the applicant is a corporation,

limited liability company or partnership, then all individuals listed on the application as required by §156-6B shall provide proof of the required continuing education. Such continuing education shall be provided by a recognized training facility such as an accredited college or university providing construction or construction-related courses towards a construction-related degree or courses provided by the National Association of Home Builders (NAHB) or certified safety courses approved by the Occupational Safety and Health Administration (OSHA) or be otherwise approved by the continuing education courses that she has determined qualify as suitable for continuing education credits. The Town Clerk will maintain a list of continuing education courses that she has determined qualify as educational credit for applicant's review.

SECTION 5. Amendment.

§156-7 Application for renewal license.

Applicants for a renewal license shall provide all of the information required pursuant to §156-6 above; except the applicant shall include proof that the renewal applicant has completed ten (10) classroom hours of continuing education as set forth in §156-6 above, in the two years immediately prior to the date of the renewal application.

SECTION 6. Amendment.

§156-13 Nature and use of license.

A. Term. Any license issued hereunder shall expire two years after its date of issuance, unless suspended or revoked as hereinafter provided.

SECTION 7. Amendment.

§156-15 Licensing Review Board.

B. Powers and duties. The Licensing Review Board shall have the authority to:

(1) Hold meetings at regular times and places for the efficient discharge of the responsibilities and duties of the Board.

(2) Make rules for the conduct of its meetings and keep a minute book of its proceedings, including a record of its examinations and other official actions.

(3) Make such reasonable investigation as it deems necessary or advisable with regard to possible violations of this chapter or of any license which shall have been issued or applied for hereunder.

(4) Call and conduct meetings and, after a hearing to which the licensee is given at least 10 days' written notice and at which all interested parties are afforded a sufficient opportunity to be heard, fine a licensee and/or to suspend, modify, condition, limit or revoke a previously issued license; or to direct the Town Clerk to issue a license or license renewal previously denied by him, and/or to accept credits for continuing education previously denied by him. In this regard, the Board shall:

(a) Conduct hearings to consider facts or circumstances of which it has become aware through its own investigation or through investigation by the Town Clerk and which facts

and circumstances, if true, would provide a basis for imposition of a fine or for the modification, limitation, suspension or revocation of a home improvement contractor's license issued hereunder.

(b) Hear and determine any complaint or grievance made to it in writing by an owner in the Town which, if found to be true, would provide a basis for imposition of a fine or for the modification, limitation, suspension or revocation of a home improvement contractor's license issued hereunder.

(c) Hear appeals from any person to whom the Town Clerk has denied a home improvement contractor's license or renewal pursuant to §156-12 hereof.

(5) Keep records of licenses issued, suspended or revoked, make and maintain such other records as may be useful in the performance of its duties and adopt guidelines for making such records available for public inspection.

(6) Formulate and recommend to the Town Board for adoption changes to the provisions of this chapter governing the standards for and issuance of home improvement contractor's licenses.

(7) The Licensing Review Board shall be the designated review board for the purposes of §226-7.

SECTION 8. Amendment.

§156-16 Prohibited Conduct.

In addition to any conduct specifically prohibited by other sections or provisions of this chapter, no person shall:

A. Failure to perform: abandon or willfully fail to perform, without justification, any home improvement contract entered into;

B. Deviation: willfully deviate from or disregard agreed-upon home improvement contract specifications or estimates in any material respect without consent of the other contracting party;

C. Misrepresentation in contract solicitation: make any substantial misrepresentation in the solicitation or procurement of a home improvement contract or make any false promise likely to influence, persuade or induce an owner to enter into such a contract;

D. False advertising: directly or indirectly publish any advertising relating to goods or services offered in connection with home improvement which contains an assertion, representation or statement of fact which is false, deceptive or misleading; provided, however, that an advertisement which is subject to and complies with then-existing rules, regulations or guidelines of the Federal Trade Commission shall not be deemed to be false, deceptive or misleading hereunder;

E. No intent: advertise or purport to offer the general public or any owner any contract with the intent not to accept said contract for the particular work at the price or under other particular terms advertised or offered;

F. Name change: conduct a home improvement contracting business in any name other than the one for which a license has been obtained hereunder;

G. Shoddy workmanship: engage in workmanship which fails to meet the minimum requirements set forth in the Long Island Builders Institute (LIBI) standards as set forth in "Accepted Building Standards" (Long Island Builders Institute, Inc.), which standards represent the generally accepted standards or workmanship for contractors on Long Island;

H. Contract execution: execute any contract, agreement, or change order on behalf of the contractor by any person other than those set forth in the contractor's application pursuant to §156-6 hereof;

I. Insurance: conduct or engage in any home improvement activity without the minimum coverage required by this chapter and/or fail to notify the Town Clerk of the loss of any such coverage;

J. Application misrepresentation: make any substantive misrepresentation or omission on any home improvement contractor's license application or renewal application; or

K. License production: fail to maintain on site or to produce upon demand by any Town official a copy of the contractor's current home improvement contractor's license.

L. Work without necessary approvals and permits: perform any home improvement prior to all the necessary approvals and permits being issued and posted as required for said home improvement.

M. Violate a stop work order: continuation of work after the issuance of stop work order or other similar order issued by an agency or department of the Town of East Hampton, Suffolk County, or the State of New York.

SECTION 9. Amendment.

A. Violations.

(1) A person shall be guilty of a violation of this chapter when he:

(a) Conducts or engages in any home improvement project or business without having first obtained a license therefor, except as provided for in this chapter.

(b) Conducts or engages in any home improvement project or business not authorized by his home improvement contractor's license.

(c) Conducts or engages in any such home improvement project or business while his license is suspended or revoked.

(d) Conducts, engages in or carries out any particular home improvement or home improvement activity specifically prohibited by his license as modified or limited by action of the Licensing Review Board hereunder.

(e) Engages in any of the acts prohibited by the provisions of §156-16 or any other provision of this chapter.

(2) For the purposes of the preceding subsection, a person shall be deemed to have

conducted or engaged in a home improvement business when he enters into a contract with an owner wherein he agrees to carry out a home improvement. Each such contract entered into and each and every day of actual home improvement business, activity or work engaged in or conducted pursuant to such contract or of particular prohibited conduct shall constitute a separate and distinct violation of this chapter.

B. Penalties.

(1) Upon conviction of any violation as above defined and set forth in this chapter, a person shall be punishable for each and every violation as follows:

(a) For conviction of a first offense, the imposition of a fine not exceeding \$1,000 or limitation, suspension or revocation of the contractor's home improvement contractor's license for a period of up to one year pursuant to the provisions of §156-15 hereof, or both;

(b) For conviction of a second offense, both of which were committed within a period of five years, the imposition of a fine not less than \$1,000 nor more than \$2,500 or limitation, suspension or revocation of the contractor's home improvement contractor's license for a period of up to one year pursuant to the provisions of §156-15 hereof, or both;

(c) For conviction of a third or subsequent offense, all of which were committed within a period of five years, the imposition of a fine not less than \$2,500 nor more than \$5,000 or limitation, suspension or revocation of the contractor's home improvement contractor's license for a period of up to one year pursuant to the provisions of §156-15 hereof, or both.

(2) Payment of all fines imposed by the Licensing Review Board shall be delivered to the Town Clerk within 120 days of the date of filing of the determination of the Board. In the event that payment is not made within the aforementioned period, no license or renewal license shall be approved until such fines have been paid in full.

SECTION 10. Authority.

The proposed local law is enacted pursuant to Municipal Home Rule Law §10(1)(ii)(a)(12) and Town Law §136.

SECTION 11. Severability.

If any section or subsection, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part or provisions so adjudged to be invalid or unconstitutional.

SECTION 12. Effective Date.

This local law shall take effect upon filing with the Secretary of State pursuant to Municipal Home Rule Law.